FILE COPY

FILED
FEB 5 1970
JOHN F. DAVIS, CLERK

(23-A) No. 35, Original

IN THE

Supreme Court of the United States

October Term, 1969

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF MAINE, *et al.*,
Defendants.

MOTION BY STATE OF NEW YORK FOR REFERENCE OF CASE TO A MASTER

LOUIS J. LEFKOWITZ
Attorney General of the State
of New York
Attorney for Defendant, State of New York
The Capitol
Albany, New York 12224

RUTH KESSLER TOCH
Solicitor General

JULIUS L. SACKMAN
Assistant Attorney General

of Counsel

BATAVIA TIMES, LAW PRINTERS,
BATAVIA, N. Y.

Supreme Court of the United States

October Term, 1969

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MAINE, *et al.*,

Defendants.

MOTION BY STATE OF NEW YORK FOR REFERENCE OF CASE TO A MASTER

Sirs:

PLEASE TAKE NOTICE that the State of New York moves, on the annexed affidavit of Julius L. Sackman, an Assistant Attorney General and a member of the bar of this Court, that the case be referred to a Special Master and that the Master be directed in particular to consider and prepare detailed findings upon the claims of the State of New York and its codefendants herein. In so moving the State reserves the right and declares its intention to provide the historical and other factual material to the Court directly in the most efficient manner possible if this motion is denied, and briefing and argument before this

Court on the motion of the United States for judgment is ordered.

Dated: January 29, 1970.

Yours, etc.,

LOUIS J. LEFKOWITZ
Attorney General of the State
of New York
Attorney for Defendant, State
of New York
The Capitol
Albany, New York 12224

To:

HONORABLE JOHN F. DAVIS
Clerk of Supreme Court of the
United States

HONORABLE JOHN N. MITCHELL
Attorney General of the United States
Department of Justice
Washington, D. C. 20530

HONORABLE ERWIN N. GRISWOLD
Solicitor General of the United States
Justice Department
Washington, D. C. 20530

HONORABLE JAMES S. ERWIN
Attorney General of Maine
Augusta, Maine 04330

HONORABLE EARL FAIRCLOTH
Attorney General
State of Florida
The Capitol
Tallahassee, Florida 32304

HONORABLE ~~ARTHUR J. SILEN~~ George F. Kugler, Jr.
Attorney General of New Jersey
State Capitol
Trenton, New Jersey

HONORABLE DAVID P. BUCKSON
Attorney General of Delaware
Kirk Building, P. O. Box 752
Dover, Delaware 19901

HONORABLE ARTHUR K. BOLTON
Attorney General of Georgia
132 State Judicial Building
Atlanta, Georgia 30334

HONORABLE FRANCIS B. BURCH
Attorney General of Maryland
One Charles Center
Baltimore, Maryland 20201

HONORABLE ROBERT H. QUINN
Attorney General of Massachusetts
State House
Boston, Massachusetts 02133

HONORABLE GEORGE S. PAPPAGIANIS
Attorney General of New Hampshire
State House
Concord, New Hampshire 03301

HONORABLE ROBERT MORGAN
Attorney General of North Carolina
P. O. Box 629
Raleigh, North Carolina 27602

HONORABLE HERBERT F. DESIMONE
Attorney General of Rhode Island
Providence County Court House
Providence, Rhode Island 02903

HONORABLE DANIEL R. MCLEOD
Attorney General of South Carolina
Hampton Office Building
Columbia, South Carolina 29201

HONORABLE ROBERT Y. BUTTON
Attorney General of Virginia
Supreme Court—Library Building
Richmond, Virginia 23219

HUGH B. COX, ESQ.
888 Sixteenth Street, N. W.
Washington, D. C. 20006

SUPREME COURT OF THE UNITED STATES

October Term, 1969

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MAINE, *et al.*,

Defendants.

State of New York }
County of Albany } ss.:

JULIUS L. SACKMAN, being duly sworn, deposes and says that he is a member of the bar of this Court and is an Assistant Attorney General in the office of Honorable Louis J. Lefkowitz, Attorney General of the State of New York, attorney for the defendant, State of New York; that deponent is fully acquainted with all the facts and circumstances of the above-entitled actions.

The plaintiff has moved for judgment and has suggested a proposed schedule, subject to this Court's approval, for the filing of briefs and the argument of the case. The defendants, Delaware, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, South Carolina and Virginia, have cross-moved for reference of the case to a Master.

The State of New York hereby joins in the cross-motion and adopts the statements set forth by the said States in support of the cross-motion.

Should the Court follow the course suggested by the United States, the State of New York concurs in the time schedule for briefing and oral argument proposed by the United States in its brief in support of the motion for judgment (p. 20). That schedule contemplates that the brief in support of the motion for judgment filed by the United States would constitute its opening brief on the merits, that the defendant States would file briefs and documents in response by June 1, 1970, that the United States would file any reply it wishes to make by September 1, 1970, and that oral argument would take place at the start of the next Term. In this connection, we urge that the proposed time schedule not be shortened by the Court to require the States to submit their briefs and supporting documents before June 1, 1970.

In the absence of a Master's report, presentation of this original action directly to the Court entails our preparation of the evidentiary basis for the claim of the State of New York as well as the legal arguments. In view of the great importance of the issues and the substantial historical research required in the archives of the State of New York and in other sources, a time schedule allowing less time than that suggested would be burdensome to this movant and prejudicial to its position. This movant submits that it would not be feasible to have oral argument in this case before the start of next Term and that, therefore, the suggested schedule would not result in any delay in presentation of this case to the Court.

WHEREFORE, the State of New York respectfully prays that this Court issue an order referring the case to a

Master in accordance with and for the purposes set forth in the Notice of Motion to which this affidavit is annexed, and for such other, further and different relief as this Court may deem proper.

JULIUS L. SACKMAN

Sworn to before me this
~~29~~th day of January, 1970.
Richard L. McHale
Notary Public, Albany County
Comm. Exp. 3/30/70